

REMARKS

Claims 1-7 are canceled. Claims 8-27, as amended, are pending in the present application. Claims 8-10 were rejected as fully disclosed by Okajima, U.S. Patent No. 6,467,193 (hereinafter "Okajima"). Claims 11-17 were objected to as being dependent upon a rejected base claim. Claims 18-27 were withdrawn from consideration as being drawn to a nonelected species due to the lack of an allowable generic or linking claim.

As noted in the Office Action of May 27, 2005, "Claims 11-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims." Applicant respectfully submits an amendment to independent Claim 8 to address two separate issues. First, the amendment to Claim 8 serves to clarify the claimed invention, thereby distinguishing Okajima. Second, because Claim 8 would serve as an allowable generic or linking claim for withdrawn Subclaims 18-27, applicant seeks to rejoin the previously provisionally non-elected species.

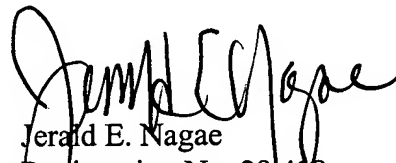
Specifically, Claim 8 has been amended to emphasize the relative movement produced by this invention between the control element and the channeling element; it is this relative movement that produces localized deformations in the footwear and reduction in the volume of the footwear in the region of the heel. This relative movement does not occur in Okajima, where no significant relative movement occurs between its control element (62) and the unnumbered element extending around the heel portion of the footwear.

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Applicant respectfully submits that with the cancellation of Claims 1-7 and the foregoing amendment to independent Claim 8, all of the claims of the present application are allowable over the cited prior art. If the Examiner does not agree in this regard, applicant's undersigned attorney would appreciate an opportunity to discuss the present matter with the Examiner by telephone. The undersigned can be reached at 206-695-1705.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: August 15, 2006 

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